

On January 21, 2010, the PSB issued a memorandum requesting comments on the petition and additional information regarding the "equity requires" language in Section 8005(b)(7).

On February 18, 2010, WEC filed an explanatory response with the PSB concerning the legislative intent of the "equity requires" language in Section 8005(b)(7) and reiterating its assertion that WEC should be exempt from purchasing standard-offer power.

On March 16, 2010, the Vermont Department of Public Service ("Department") filed a letter with the PSB stating that the "equity requires" language in Section 8005(b)(7) does not allow WEC to be wholly relieved from Section 8005(b)'s obligations to purchase standard-offer power and to pay a share of the SPEED Facilitator's costs, but recommending that WEC be relieved, *in part*, of any future requirements imposed by a potential renewable portfolio standard, since it has developed significant amounts of renewable energy.

On April 9, 2010, WEC filed a letter with the PSB responding to the Department's assertions.

On April 19, 2010, WEC filed a letter updating the PSB on the status of legislation that might impact the issue of WEC's exemption request.

On June 4, 2010, changes to Section 8005(b)(7) were enacted as part of Public Act No. 159 (2010 Vt. Adj. Sess.) ("Act 159").

No other comments have been received by the PSB.

II. DISCUSSION & CONCLUSION

Act 159 has amended Section 8005(b)(7) to read:

a retail electricity provider that establishes that it receives at least 25 percent of its energy from qualifying SPEED resources that were in operation on or before September 30, 2009, shall be exempt and wholly relieved from the requirements of subdivisions (b)(5) (requirement to purchase standard offer power) and (g)(2) (allocation of standard offer electricity and costs) of this section.

DPS filed its comments before Act 159 amended the language of Section 8005(b)(7). After Act 159 was enacted, the DPS did not file any additional comments concerning WEC's exemption request. Due to the change in the operative language of the statute, the DPS's comments are no longer germane and we proceed with our discussion accordingly.

Pursuant to Section 8002 and PSB Rule 4.303-305, SPEED projects must be located in Vermont, must have a contract for the sale of the project's power, and must produce energy using

new, renewable energy. A "new" project, pursuant to Section 8002(4) means a project brought on-line after December 31, 2004, and, pursuant to Section 8002(2)(A), energy produced using landfill-gas generation technology is considered renewable. The WEC-owned Coventry Project is located in Coventry, Vermont, and is a landfill-gas generation facility that first began production in July 2005.¹ Currently, WEC receives more than twenty-five percent of its energy from the Coventry Project.² Therefore, we conclude that WEC is receiving more than twenty-five percent of its energy from a qualifying SPEED resource.

With Act 159, the Legislature specifically amended Section 8005(b)(7) to provide that retail electricity providers that meet the requirements discussed above, "shall be exempt and wholly relieved from the requirements of" Section 8005(b)(5) and 8005(g)(2). Thus, we conclude that WEC is "exempt and wholly relieved from" any obligation to purchase power under the standard-offer program and to pay any share of the SPEED Facilitator's costs. This exemption applies to all power and costs associated with the standard-offer program, including the power and costs that have already been allocated to WEC by the SPEED Facilitator.

SO ORDERED.

1. Letter from Avram Patt, WEC's General Manager, to Susan Hudson, Clerk of the Board, dated Sept. 25, 2009.

2. *Id.*

Dated at Montpelier, Vermont this 30th day of June, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
<u>s/ David C. Coen</u>)	BOARD
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 30, 2010

ATTEST: s/ Susan M. Hudson

Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.